

Appellate Procedure and Oral Arguments

A party dissatisfied with the final outcome of a case at the trial court level may appeal to a higher court. In limited circumstances, a party may seek an appeal in advance of final judgment by obtaining permission from the supreme court.

At the appellate level, the court does not conduct a trial—there are no witnesses, no juries, and no court reporters. Nor does the appellate court admit new evidence. Instead, an appellate court reviews the trial court record to determine whether any significant legal errors occurred.

Appellate procedure requires that parties provide the court with briefs. Briefs are written documents setting forth a narrative of the facts of the case, the party's legal arguments, including citations to legal precedent, and the relief sought from the appellate court. In their briefs, the parties may request to make an oral argument before the court. The court has discretion to grant oral argument.

Oral argument is an opportunity for the parties to highlight key issues and for the justices to ask questions about the case. In oral argument, the appellant (party who filed the appeal) argues first, followed by the appellee (opposing party), and then the appellant is allowed to make a brief rebuttal argument. In most cases, each party has ten minutes to make an argument and the appellant has five minutes for rebuttal.

After arguments, the justices will discuss the case in private conference. The chief justice assigns the task of writing the court's decision to one justice. Generating a final opinion may take several months. During this time, justices are researching, writing, and conferring with each other about the case.

Ultimately, the appellate court may “affirm”—uphold the decision or order of the lower court; “reverse”—set aside the decision or order; or “remand”—send the case back to the lower court with instructions for further action.